IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 10652 of 2006(R)

PETITIONER:

G. SANTHOSH, S/O. GANESAN M.,
HOUSE NO.X/1134, SOUTH AMARAVATHI,
VELI, KOCHI-1.

BY ADV. SRI.P.N.SANTHOSH
SMT.K.P.GEETHA MANI

RESPONDENTS:
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1. MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PRIYADHARSHINI HILLS, ATHIRAMPUZHA,
KOTTAYAM.

2. THE PRINCIPAL, COCHIN COLLEGE,
KOCHI-2.

BY ADV. SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SECONDARY SCHOOL EXAMINATION CERTIFICATE DATED 11.9.1995 ISSUED TO THE PETITOINER BY THE CBSE.

EXT.P2: COPY OF THE MARK LIST ISSUED TO THE PETITOINER BY THE CBSE FOR THE SECONDARY SCHOOL EXAMINATION.

EXT.P3: COPY OF THE MARK LIST FOR THE MATHEMATICS PAPER ISSUED BY THE CBSE TO THE PETITIONER.

EXT.P4: COPY OF THE COUNTER FOIL OF THE CHALAN RECEIPT REMITTING AN AMOUNT OF RS.100/- TOWARDS ELIGIBILITY CERTIFICATE.

EXT.P5: COPY OF THE INTERIM ORDER IN C.M.P.NO.59092/1999 IN O.P.NO.30583 OF 1999 TO DECLARE THE RESULT OF THE EXAMINATIONS.

EXT.P6: COPY OF THE STATEMENT FILED BY THE 2ND RESPONDENT IN THE ORIGINAL PETITION.

EXT.P7: COPY OF THE ORDER DATED 25.10.2000 ISSUED BY THE FIRST RESPONDENT UNIVERSITY.

EXT.P8: COPY OF THE AFFIDAVIT DATED 19.7.2002 FILED BY THE FIRST RESPONDENT IN THE WRIT APPEAL.

EXT.P9: COPY OF THE CIRCULAR DATED 4.5.1992 ISSUED BY THE FIRST RESPONDENT.

EXT.P10: COPY OF THE JUDGMENT DATED 27.6.2005 IN WRIT APPEAL NO.632 OF 2002 OF THIS HONOURABLE COURT.

EXT.P11: COPY OF THE COMMUNICATION DATED 16.12.005 SENT BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P12: COPY OF THE JUDGMENT DATED 25.11.2004 IN WRIT APPEAL NO.1040 OF 2003 OF THIS HONOURABLE COURT.

/TRUE COPY/

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.10652 OF 2006

Dated 6th March, 2007

JUDGMENT

Koshy,J.

Petitioner is a member of the Scheduled Caste community. He passed 10th standard (CBSE) in the year 1995 by writing the examination in compartments. Petitioner failed in Mathematics, but, in separate examination, he passed the same. The second respondent college admitted the petitioner for Pre-degree course and petitioner was allowed to write the examination. Even though results were not published, as per the directions of this court, results were made known and the petitioner passed Pre-degree examinations. Writ petition filed by the petitioner in the first round was dismissed by this court upholding the order of the University declaring those who passed 10th Standard in compartments ineligible for admission to Pre-degree course. However, a Division Bench in Ext.P10 judgment directed the University to consider the matter. We note that now the Pre-degree course itself is abolished. Learned Single Judge who referred the matter was of the opinion that there may be a case where bright students who may not be able to write examinations in one or two subjects due to sickness or other circumstance beyond their control passed examination in compartments and such students cannot be compelled to write those examinations written by

them again and, therefore, the matter has to be considered by a Division Bench. We are not going into the legal aspects of the matter. Petitioner is a scheduled caste candidate. He has got admission to the Pre-degree course. He completed the course and was allowed to write examination. He passed the Pre-degree examination, but, results were withheld on the basis of Ext.P9 circular only because he passed the 10th Standard examination on compartmental basis. Similarly placed persons were given benefits by separate judgment by this court and petitioner is the only person now left behind. Pre-degree course itself is abolished. Considering the facts and circumstances of the case and considering the fact that the petitioner passed 10th Standard, though compartmentally, and he passed the Pre-degree examination written by him at the first instant itself, his results shall be declared finally without creating precedent.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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